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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,272	08/01/2001	Howard W. Fingerhut	36968/206010	5345
7590 04/26/2005			EXAMINER	
SCOTT P. ZIMMERMAN			LY, NGHI H	
P.O. BOX 3822			ART UNIT	
CARY, NC 27519			PAPER NUMBER	
			2686	

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,272

Applicant(s)

FINGERHUT ET AL.

Examiner

Nghi H. Ly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 11-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 46-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 11-45 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04/19/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 04/19/2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Page 1 of 3 of Form 1449/A/PTO does not include any reference number.

Election/Restrictions

2. Applicant's election with traverse of claims 1-8 and 46-49 in the reply filed on 10/28/2004 is acknowledged. The traversal is on the ground(s) that "No showing of independent or distinct invention", "No showing of burden" and "Reason is inadequate". This is not found persuasive because Group I includes claims 1-10 and 46-49 recites promoting the wireless device to register and monitoring the radio channel, Group II includes claims 11-23, recites an authorization denial, Group III includes claims 24-26, recites checking a base station capable of operating in broadcast mode, Group IV includes claims 27-39 recites a schedule and Group V includes claims 40-45, recites a time-to-live allowance. Groups I-V are distinct from each other and they are shown to be separately usable.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3, 46 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukagoshi (US 6,058,311) in view of Illidge (US 6,101,394).

Regarding claim 1, Tsukagoshi teaches a method for transmitting data to selected wireless devices in a wireless network without assignment of a unique network address (see column 2, lines 3-14), respectively, to each of the wireless devices (see column 2, lines 3-14), the method comprising: provisioning a wireless device with at least a hardware serial number (HSN) (column 4, lines 21-42, see "unique identifier" or "subscriber number") and generic access numbers (GANs) (column 4, lines 21-42, see

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"temporary identifier"), prompting the wireless device to register with a service provider by selecting a GAN and transmitting the GAN as well as the HSN to the service provider, receiving a broadcast access number (BAN) (see column 4, lines 50-55) and an identification of a radio channel at the wireless devices (see column 4, lines 21-42), receiving a broadcast over the radio channel with the broadcast including data directed to the wireless device and associated with the BAN (see column 4, lines 21-42), and using the BAN to access the data directed to the wireless device and associated with the BAN from the broadcast made over the radio channel (column 7, lines 55-58 and column 9, lines 30-34, see "access").

Tsukagoshi does not specifically disclose causing the wireless device to use the identification of the radio channel to monitor the radio channel.

Illidge teaches causing the wireless device to use the identification of the radio channel to monitor the radio channel (see column 6, lines 1-10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Illidge into the system of Tsukagoshi in order to monitor the current frequency that the MS is operating on (see Illidge, column 2, lines 26-27).

Regarding claim 2, Tsukagoshi teaches receiving the BAN and identification of the radio channel at another wireless device having information needs in common with the wireless device, and to use the BAN to access the data the broadcast made over the radio channel, whereby monitoring of the radio channel and use of the BAN by the another wireless device to access the data broadcast over the radio channel efficiently

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delivery information and yet saves network resources by avoiding over-broadcasting or otherwise over-burdening network infrastructure and resources.

Tsukagoshi does not specifically disclose causing another wireless device (see fig.1, devices 10, 12 and 16) to use the identification of the radio channel to monitor the radio channel

Illidge teaches causing another wireless device (see fig.1, devices 10, 12 and 16) to use the identification of the radio channel to monitor the radio channel (see column 6, lines 1-10).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Illidge into the system of Tsukagoshi in order to monitor the current frequency that the MS is operating on (see Illidge, column 2, lines 26-27).

Regarding claim 3, Tsukagoshi teaches a method for transmitting data to selected wireless devices in a wireless network without assignment of a unique network address (see column 2, lines 3-14). Tsukagoshi does not specifically disclose in response to accessing the data causing the wireless device to determine whether the data comprises a broadcast message.

Illidge teaches in response to accessing the data causing the wireless device to determine whether the data comprises a broadcast message (see column 1, lines 35-49).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Illidge into the system of

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Tsukagoshi in order to monitor the current frequency that the MS is operating on (see Illidge, column 2, lines 26-27).

Regarding claim 46, claim 46 is rejected with similar reason as set forth in claim 1 above.

Regarding claim 48, claim 48 is rejected with similar reason as set forth in claim 1 above.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukagoshi (US 6,058,311) in view of Illidge (US 6,101,394) and further in view of Makino (US 4,856,083).

Regarding claim 4, the combination of Tsukagoshi and Illidge teaches claim 1. The combination of Tsukagoshi and Illidge does not specifically disclose the wireless device determines the data comprises the broadcast message by determining the data comprising serial number field containing zero.

Makino teaches the wireless device determines the data comprises the broadcast message by determining the data comprising serial number field containing zero (see column 3, lines 60-65).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Makino into the system of Tsukagoshi and Illidge in order to prevent from turning to different radio channels without the need for a control channel (see Makino, Abstract).

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6. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukagoshi (US 6,058,311) in view of Illidge (US 6,101,394) and further in view of Pinault (US 6,741,872).

Regarding claim 5, the combination of Tsukagoshi and Illidge teaches claim 1. The combination of Tsukagoshi and Illidge does not specifically disclose in response to accessing the data, causing the wireless device to determine whether the data comprises a point-to-point message for the wireless device.

Pinault teaches in response to accessing the data, causing the wireless device to determine whether the data comprises a point-to-point message for the wireless device (see column 6, lines 43-48).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Pinault into the system of Tsukagoshi and Illidge in order to provide a method of authorizing access to a cellular mobile radio network from a simplified telephone (see Pinault, column 2, lines 2-5).

Regarding claim 6, the combination of Tsukagoshi and Illidge teaches claim 1. The combination of Tsukagoshi and Illidge does not specifically disclose the wireless device determines the data comprises the point-to-point message for the wireless device by determining the data comprise a serial number field including a non-zero value matching the serial number of the wireless device.

Pinault teaches the wireless device determines the data comprises the point-to-point message for the wireless device by determining the data comprise a serial number

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field including a non-zero value matching the serial number of the wireless device (see column 6, lines 43-48).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Pinault into the system of Tsukagoshi and Illidge in order to provide a method of authorizing access to a cellular mobile radio network from a simplified telephone (see Pinault, column 2, lines 2-5).

Regarding claim 7, the combination of Tsukagoshi and Illidge teaches claim 1. The combination of Tsukagoshi and Illidge does not specifically disclose the wireless device determines the data does not comprise the point-to-point message for the wireless device by determining the data comprising a serial number field including a non-zero value failing to match the serial number of the wireless device.

Pinault teaches the wireless device determines the data does not comprise the point-to-point message for the wireless device by determining the data comprising a serial number field including a non-zero value failing to match the serial number of the wireless device (see column 6, lines 43-48).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Pinault into the system of Tsukagoshi and Illidge in order to provide a method of authorizing access to a cellular mobile radio network from a simplified telephone (see Pinault, column 2, lines 2-5).

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7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukagoshi (US 6,058,311) in view of Illidge (US 6,101,394) and further in view of Dent (US 6,591,100).

Regarding claim 8, the combination of Tsukagoshi and Illidge teaches claim 1. The combination of Tsukagoshi and Illidge does not specifically disclose the wireless device receives the broadcast during a lull period with respect to communications traffic.

Dent teaches the wireless device receives the broadcast during a lull period with respect to communications traffic (see column 11, lines 25-28).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Dent into the system of Tsukagoshi and Illidge in order to provide a connection with continuous transmission and reception protocol (see Dent, column 2, lines 59-61).

8. Claims 47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsukagoshi (US 6,058,311) in view of Illidge (US 6,101,394) and further in view of Marwell et al (US 6,668,055).

Regarding claim 47, the combination of Tsukagoshi and Illidge teaches claim 1. The combination of Tsukagoshi and Illidge does not specifically disclose the transaction exchange comprises electronic commerce.

Marwell teaches the transaction exchange comprises electronic commerce (see column 19, lines 53-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Marwell into the system of Tsukagoshi and Illidge in order to allow the user mobile phone to easily complete a call to a destination (see Marwell, column 2, lines 36-39).

Regarding claim 49, the combination of Tsukagoshi and Illidge teaches claim 1. The combination of Tsukagoshi and Illidge does not specifically disclose in response to the routing of the responsive transaction information to the service provider, receiving a transaction response from the service provider and associating the transaction response with the BAN and making a response broadcast of the transaction response with the BAN over the radio channel so that the wireless device retrieves the transaction response using the BAN from the responsive broadcast on the radio channel.

Marwell teaches in response to the routing of the responsive transaction information to the service provider, receiving a transaction response from the service provider and associating the transaction response with the BAN (see column 19, lines 53-67) and making a response broadcast of the transaction response with the BAN over the radio channel so that the wireless device retrieves the transaction response using the BAN from the responsive broadcast on the radio channel (see column 19, lines 53-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Marwell into the system of Tsukagoshi and Illidge in order to allow the user mobile phone to easily complete a call to a destination (see Marwell, column 2, lines 36-39).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Carneal (US 6,532,220) teaches system and method for efficient channel assignment.
- b. Eisdorfer (US 5,960,348) teaches telephone for use in processing telephone calls.
- c. Kido (US 5,652,572) teaches radio pager capable of displaying fixed sentences.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (571) 272-7911. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi H. Ly

NH Ly
04/14/05

Charles Appiah
CHARLES APPIAH
PRIMARY EXAMINER